

**UNITED STATES COURT  
FOR THE MIDDLE DISTRICT OF PA**

**Edward James Nicholas**

)

**Judge**

**v. (Plaintiff)**

)

**Sean McGlaughlin**

)

**Civil docket No.**

**FILED  
SCRANTON**

**(Defendant, et-al)**

)

**3:25-CV-0694**

**APR 18 2025**

**COMPLAINT**

**I. EXECUTIVE SUMMARY**

PER

**DEPUTY CLERK**

**II. JURISDICTION**

The Jurisdiction of this Court is Pursuant to 42 USC 1983 Section 1983.

**III. VENUE**

The events of this Civil rights case occurred within the U.S. Middle district of Pennsylvania.

1. Plaintiff Edward James Nicholas is an individual residing at 277 West Third Street, Williamsport, Pa 17701 Street.

2. Defendant is Brad Shoemaker, Ryan Barnes, Sean McGlaughlin, Nurse Supervisor Shirley. Unknown Policy maker., Defendant unknown Medical Provider. Each defendant is being sued individually, and in an official capacity.

3. The jurisdiction of this Court is based on the Federal Tort Claims Act, and 42 USC 1983 Civil Rights.

**IV. BACKGROUND HISTORY**

Plaintiff Nicholas earned a barber certification in 2004 and worked as a barber from 2004 to 2023. In that vocation, routinely used his hands and wrists. The instant Serious bodily injuries to his wrist and left arm and side effects of the injuries and delayed or negligent treatment directly impact his livelihood, enjoyment of his trade, and well being.

**V. FACTS**

**September 21, 2024**

\*All dates and times are estimated & Memorialized herein.

1. Plaintiff Edward Nicholas was standing in his cell Cubicle.
2. Plaintiff Nicholas was sat the tablet down on the ledge.
3. Plaintiff Nicholas heard Inmate Kevin Wright shouting.
4. Kevin Wright was shouting obscenities.
5. \*Shouting Racial slurs towards Plaintiff Nicholas.
6. Kevin Wright wanted to fight me.
7. Plaintiff said "no."
8. I do not want to fight you or anyone.
9. I turned around to sit down on my bunk.
10. Kevin runs in my cubicle cell.
11. Kevin Pushes me.
12. I fall backwards.
13. I put my hands up to protect my head and face.
14. I yell Stop.
15. Kevin Punched me with a closed fist.
16. I could not stand up.
17. Kevin punched me with a closed fist in the back of my head.
18. I put my hands up over my head.
19. I was protecting my head and face.
20. I felt severe pain in the back of my head.
21. I felt several punches with a closed fist.
22. I felt the punches to my shoulders.
22. I felt severe pain to my neck.
24. I felt excruciating pain to my left arm.
25. I yelled stop punching me.
26. I felt kicks to my legs and shoulders.
27. I was on the floor.
28. I tried to stand up.
29. I was being kicked.
30. I was being punched in my left ear.
31. I covered my head with my arms.
32. I yelled you broke my arm.
33. I yelled stop.
34. \*After several minutes of being Punched and kicked without interevention Kevin stopped and turned around and walked out of my cell cubicle.
35. I looked at my left arm.
36. My left arm is red and severely swollen.
37. My Left arm looks disfigured.
38. I feel excruciating pain in my left arm.
39. I feel severe pain in my shoulders.

40. I feel excruciating pain my entire body.
41. The back of my head is in pain.
42. My left ear is in physical pain.
43. My left ear is swollen.
44. I asked The Corrections officer Straub to go see the Nurse.
45. I was called to the Nurse office.
46. I asked Nurse Karen if i could go to the Hospital.
47. The answer was "no."
48. Lt white asked me what happened.
49. I was attacked in my Cell Cubicle.
50. Plaintiff Nicholas said this was unprovoked assault.
51. Lt White said who did this.
52. Plaintiff said he did not want anymore problems.
53. Lt White assured plaintiff that there would be no more problems.
54. I said it was Kevin Wright.
55. Lt asked the Nurse if she believed the Left arm was broken.
56. Plaintiff puts his arm on the nurse desk.
57. Plaintiff arm is red and severely swollen.
58. Nurse Karen asked if Plaintiff could move his fingers.
59. Plaintiff Nicholas moved his fingers.
60. Moving the Fingers caused excruciating Physical pain.
61. Lt White took digital photos of the left swollen arm.
62. Lt White took digital photos of Plaintiffs swollen head.
63. Lt White took digital photos of Plaintiffs Contusions on his head.
64. Lt White took digital photos of Plaintiffs knees and legs.
65. Lt White took Photos of Contusions on legs and knees.
67. Lt white said that inmate Wright had multiple complaints.
68. Lt White said that Inmate Wright was known for his racial slurs.
69. Lt White said that Wright was kicked off another block for similiar conduct.
70. I asked if i was in any trouble.
71. Lt White said "No."
72. I was going to be returning to the housing unit.
73. Inmate wright was going to be removed from the Housing unit.
74. I said ok.
75. I asked the Nurse Karen when i could go to the hospital.
76. I said my arm is in severe pain.
77. Plaintiff was told that the digital photos had to be emailed to the Doctor Sean McGlaughlin and evaluated for further action.
78. The Nurse gave me a Tylenol.
79. Nurse Karen said she could not do anything further.

80. I could not move my left arm.
81. I could feel the broken bones shifting beneath the skin.
82. I was in severe pain.
83. I could not sleep.
84. I was restless.
85. I felt humiliated and embarrassed.
86. I said to the Nurse Karen My Physical pain is a 10 on a physical pain scale of one to ten.

**September 22, 2024**

1. I asked the Lt. Mitcheltree if i could see the Nurse.
2. I saw the Nurse Supervisor Shirley.
3. Nurse Supervisor Shirley said there was nothing that could be done for my physical pain.
4. My left arm is throbbing with severe pain.
5. My head hurts with a pressure headache.
6. My left ear is swollen.
7. I was given an ice pack.
8. I could not sleep.
9. I took 2 tylenol to calm the pain.
10. I am still in severe pain.
11. I ask to see a doctor.
12. Lt Mitcheltree said i could not see a doctor.
13. Lt. Mitcheltree said i could not go to the hospital.
14. I said my Left arm is broken.
15. Plaintiff was not evalutated by Dr MCGlaughlin
16. Plaintiff asked for pain management medication.
17. Plaintiff asked for a narcotic medicine for pain management.
18. Nurse Supervisor Shirley said "no."
19. Narcotic pain management was banned from Lycoming County Prison.
20. I could not sleep.
21. I was restless.
22. I could not lift any objects with my left arm.
23. Plaintiff arm was immobile.

**September 23, 2024**

1. Plaintiff asked for urgent medical care for his left arm.
2. Plaintiff asked for pain management.
3. Nurse Supervisor Shirley said "No."
4. I am in severe pain.
- 5.\* I am humiliated and embarrassed when i asked for pain main management.
- 6.\* I am humiliated and embarrassed that i was assatcked in my cell.

7. I was given tylenol by the nurse.

8. The Physical pain in my left arm was nonstop.

9. My left arm is red and severely swollen.

\*Every single day Plaintiff was in bed in excruciating pain.

\*\*Any movement of his arm caused him severe bursts of Physical pain.

\*\*\*Plaintiff requested every day for pain management and was denied physical pain management.

\*\*\*\*Plaintiff Nicholas stayed in his bed and layed in his bed to eliminate movement of his left arm.

\*\*\*\*\* Plaintiff used the same routine daily and suffered enourmous amounts of untreated physical pain and suffering.

**September 24, 2024**

1. I was called for X ray.

2. The Nurse explained id be X rayed at the prison.

3. I said ok.

4. The X ray technician X rayed my left arm.

5. I complained of Excruciating pain.

6. I said i can feel the broken bones beneath the skin.

**September 25, 2024**

1. I stayed in my bed.

2. My left arm is great physical pain.

3. I ask the nurse Supervisor Shirley for pain management.

4. The Nurse Supervisor Shirley said "No" "your a tough guy you can handle the pain."

5. I could not use my left arm.

6. The Physical pain in my left arm is nonstop throbbing.

**September 26, 2024**

1.The Nurse supervisor said the X rays had come been emailed to the prison and that my left arm was broken.

2. I was not given any sling.

3. My left arm is non stop severe pain.

4. I was scheduled to see an orthopedic doctor.

**September 27, 2024**

1. My left arm was in severe pain

**September 28, 2024**

1. My left arm was in Ubearable pain.

2. I asked for Pain management treatment.

3. Nurse Supervisor said "NO."

**September 29, 2024**

1. My body was in excruciating pain.

September 30, 2024

1. My left arm was in severe pain.

October 1 st, 2024

1. I was in excruciating nonstop pain.

October 2, 2024

1. Both wrists was handcuffed.

2. The handcuffs caused me excruciating pain in my left arm.

3. I was transported TO Emergency Room.

4. The Orthopedic Doctor Trebec ordered X rays on left arm.

5. My left arm was X rayed.

6. Dr Trebec said my arm is broken in two places.

7. Dr Trebec said that My left arm required surgical procedure.

8. My left arm required 6 inch plate with 6 screws fixated to the radius bone (\*Bone that attaches to the thumb).

9. Dr trebec said the surgical procedure would cause a permanent disfigurement of scarring on the left arm.

10. Orthopedic Dr Bailey enters the room.

11. Orthopedic Dr. Bailey performs a surgical resetting of the bone in the left arm.

12. \*The surgical resetting of the bone caused me severe physical pain.

13. I asked the Doctors for prescription pain management.

14. Doctor Trebec said it was against prison policy to dispense narcotic medication.

15. I said i was in excruciating physical pain.

16. \*The orthopedic doctors said there was nothing that could be done for prescription Pain medication for the pain.

17. The Physical pain was unbearable.

18. Orthopedic Doctor Trebec said Nicholas you have to be scheduled for Blood work before we do surgery on your arm.

\* Orthopedic Dr Trebec scheduled Plaintiff Nicholas for this surgery for the following week.

\*\*Nicholas was scheduled for a series of tests and screening including EKG in preparation for the Orthopedic Surgical team.

\*\*\*Blood work at UPMC before he was scheduled for the Orthopedic surgery.

\*\*\*\*Nicholas Continued to request for physical pain management FROM THE nurses at Lycoming County prison and was denied Physical pain management for this serious bodily injury.

\*\*\*\*\*Nicholas attempted to contact his attorney assigned to his Pre trial criminal case pending and the Attorney failed to return his letters.

October 3rd, 2024

1. I was in unbearable pain.

2.\* Plaintiff was not given any adequate pain management.

3.\*Plaintiff was told by Nurse Supervisor to buy my Tylenol on inmate Commissary.

**October 4th, 2024**

1. I was in severe pain.

October 5th, 2024

1. I was in exruciating physical pain.

October, 6th, 2024

1. I was in unbearable pain.

2. I was Physically uncomfortable.

October 7th, 2024

1. I was in great physical pain.

October 8th, 2024

1. I was embarassed.

2, I was in Physical severe pain.

October 9th, 2024

1. I was excruciating pain.

October 10th, 2024

1. I was in excruciating pain.

October 11th, 2024

1. I was in severe bodily pain.

2. My left arm hurts.

3. I have a pressure headache.

October, 12th, 2024

1. Plaintiffs arm is in great physical pain.

October 13th, 2024,

1. My left arm is throbbing in severe pain.

**October 14th, 2024**

1. I was transported to UPMC Hospital for surgery on my left arm.

2. Dr. Trebec Performs surgical procedure onleft arm.

3. I was under sleep medical during surgical procedure.

4. Orthopedic doctor Trebec surgically implanted a 6 inch plate and six screws to my left radius bone(\*Bone attaches to the thumb).

5. I wake up fromthe surgery.

6. I was given a Tylenol by the Nurse.

7. I was in severe Physical pain.

8. I have a six inch permanent scar on my left arm.

9. I could not pick things up or put them down.

10. I could not get a regular shower.

11. I could not excersize.

12. I cannot use my left arm for any Purpose.

13. I am in severe physical pain.

14. \*My arm is permanently disfigured.
  15. The Orthopedic Doctor Caruso said that the "Left arm would be weak for at least the next year or more."
  16. Plaintiff has the loss of grip strength in his fingers.
  17. My wrist joints are sore with pain.
  18. I feel discomfort in Left wrist.
  19. \*Orthopedic Dr Caruso said i would continue to experience physical pain for the next year or more.
  - 20.\* Orthopedic Dr Trebec said the Screws and plate implanted in the arm are permanent and are not intended to be surgically removed once the hardware is implanted surgically in the arm.
- . I filed a Grievance with the lycoming county Prison administration.
- \*Ryan Barnes: Grievance No.2024-111 Grievance denied October 10, 2024
- \*\*Brad Shoemaker Grievance No.2024-111 Grievance denied.
- \*\*\*Grievance response from Ryan Barnes:
- This matter has been reviewed. X rays were ordered on September 21, 2024, Immediately following the incident. On September 23, 2024, You were referred tp an orthopedic doctor and on September 26, 2024, you saw the orthopedic doctor. Surgery was performed on October 4 , 2024 and a follow up appointment was scheduled later this month. Prison medical staff have and will continue to follow all orders given by the doctors. Your grievance is denied.
- \*\*\*\*Mark Lusk, No Grievance No.2024-111 Grievance denied.
- \*\*\*\*\*Edward Nicholas filed a grievance pertaining to being attacked and assaulted in his cell cubicle by another inmate Kevin Wright, as a result of this attack in his cell Nicholas received multiple broken bones including a broken radius bone on his left arm. Inmate Nicholas contends that the injury occured on Saturday and the medical staff did not order the timely emergency hospital visit but instead ordered X RAYS through a private company on or about Tuesday, Thursday X rays was returned to the prison and E-MAILED to the doctor Sean McGlaughlin confirming that Nicholas suffers a broken arm. An appointment with the orthopedic was schduled on that Monday who ordered additional X rays confirming the broken arm, Nicholas complained of excruciating amounts of pain during this time period. Nicholas left arm shon redness and was swollen. McGlaughlin did not evaluate Nicholas for physical pain management for the broken arm.

## **Vi. ALLEGATIONS**

(District Court Caption)

### **ALLEGATION 1**



1. Plaintiff Edward J. Nicholas is an individual residing at 277 West third street, Williamsport, PA 17701, Street, Pennsylvania.
2. Defendant(s) is Brad Shoemaker, Ryan Barnes, Sean McGlaughlin, Nurse Supervisor Shirley. Unknown Policy maker. Lycoming County., 29th Judicial district of Pennsylvania.
3. The jurisdiction of this Court is based on the Federal Tort Claims Act, and Section "1983."Civil Rights.
4. At all times relevant hereto, the acts or omissions complained of in this complaint were committed by agents, servants, or employees of defendant acting within the course and scope of their agency and employment with the defendant.
5. Plaintiff Nicholas , in compliance with the provisions of the 42 USC 1983 , Section 1983 filed a claim for damages arising from Deliberate indifference, negligence, malpractice, and battery committed by agents, servants, workmen, and/or employees of the Public Health Service, on Service has failed to act upon it.
6. On or about October 14 th, 2024, plaintiff was admitted as an inpatient to the Public Health Service Hospital ("hospital") in Williamsport, Pennsylvania with a history of (describe history, e.g., Broken Radius Bone of the left arm , Severe pain and weakness of several weeks duration).
7. On or about October 14 th, 2024 , surgeons acting as agents, servants, workmen and/or employees of defendant, including but not limited to, Surgeons, Nurses, Orthopedic, M.D., in the course and scope of their employment, performed upon plaintiff a surgical procedure known as Surgery on Left Radius bone and Implanted 6 inch plate with 6 screws fixated to the bone implanted underneath the skin. (describe procedure, e.g).
8. Plaintiff Nicholas hospital course was complicated by Untreated Physical pain management (describe additional problems, e.g., Severe pain of the broken bones without adequate treatment and delayed medical intervention).
9. Plaintiff Nicholas injuries, as hereinafter set forth, were directly and proximately caused by the carelessness, negligence, and battery of defendant, its agents, servants, workmen, and/or employees, and included but were not limited to the following: (specify injuries, Permanent 6 inch plate with 6 screws , subsequent surgery to establish right , severe and constant Left arm pain , back and leg pain and weakness, Severe disfigurement, severe depression and mental distress, severe Pain in left arm and wrist joint, Nerves, all of which have continued to the present, are permanent in nature, and are expected to continue throughout plaintiff's lifetime.
10. The Recklessness, carelessness and negligence of defendant, acting by and through its agents, servants, workmen, and/or employees, consisted of the following:
  - (a) Failure to conform to the requisite standard of reasonable medical care and skill under the circumstances, and at the time,

with respect to plaintiff;

(b) Failure to provide and render reasonable medical care to plaintiff under the circumstances;

(c) Failure to perform surgery on plaintiff in a proper, reasonable, and safe manner;

(d) Failure to properly select, train, and supervise its agents, servants, workmen, or employees to assure plaintiff reasonable treatment and care under the circumstances;

(e) Failure to diagnose and treat plaintiff appropriately and expeditiously;

(f) Failure to utilize appropriate and requisite laboratory, hospital, and consulting facilities in treating plaintiff;

(g) Failure to obtain plaintiff's informed consent to the surgery performed;

(h) Negligence as a matter of law; and

(i) Such other acts and/or omissions constituting carelessness, negligence, and malpractice as may become evident during the course of discovery or at the trial of this action.

11. As a direct result of the aforementioned injuries, plaintiff has suffered, and will continue to suffer for an indefinite time in the future, great physical pain and mental anguish, to his great detriment and loss.

12. As a further result of the aforementioned injuries, plaintiff has suffered a marked loss of earnings and depreciation of his earning capacity, and will continue to suffer such loss and depreciation for an indefinite time in the future, to his great detriment and loss.

13. As a further result of the aforementioned injuries, plaintiff has been unable to attend to and perform his usual and daily duties, occupations, avocations, and labors, and will continue to be so disabled for an indefinite time in the future, to his great detriment and loss.

## **ALLEGATION 2**

Deliberate indifferent to health and safety of Plaintiff Nicholas in violation of the eighth amendment rights Prohibition against cruel and unusual punishment.

This model provides:

\*Deliberate indifference is established only if there is actual knowledge of a substantial risk that plaintiff suffered serious bodily injury and physical pain.

A medical problem is serious bodily physical

pain & other problem of serious harm of Physical pain specific to the suffering of a broken bone gauging into the nerves of the left arm that defendant is expected to prevent and prison officials disregarded that risk by intentionally refusing or failing to take reasonable measures to deal with the problem. see\* 3B Kevin O mally et al., Federal Jury Practice and instructions id at\* 166:30, at {6 th ed.2013}

1. Failure of Medical Policy maker to take measures to abate severe injuries.
2. Policy maker Maliciously and sadistically caused for Plaintiff to suffer severe physical pain without adequate treatment or pain management of a Narcotic to manage the Pain.
3. Failure to take measures to abate further injuries.
4. Failure to train employees in due process rights of Pre trial detainees by acting with deliberate indifference to a serious risk of harm to their safety and well being.
5. Knows of and disregards an excessive risk of physical harm results, irreparable injuries, defendants acted with deliberate indifference to a known or obvious risk of harm to Plaintiff.

### **ALLEGATION 3**

#### **\*JURY INSTRUCTIONS (PA SSJI (Civ) 7.175**

#### **NONECONOMIC LOSS ,DAMAGES UNDER THE POLITICAL SUB DIVISION TORT CLAIMS ACT FOR PERMANENT LOSS OF A BODILY FUNCTION OR PERMANENT DISFIGUREMENT.**

Plaintiff Nicholas claiming permanent loss of a bodily function may recover damages for noneconomic harm such as pain and suffering, embarrassment and humiliation, and loss of the ability to enjoy pleasures of life, only if he sustained a permanent loss of bodily function as a result of defendants negligence.

To establish a permanent loss of a bodily function plaintiff must prove that:

1. He is unable to do or perform a bodily act that he was able to perform prior to sustaining that injury, and
2. Name of Plaintiff loss of that ability is permanent.
3. In cases claiming permanent disfigurement,

**\*\*Defines the inability to engage in the same activities without pain and discomfort, or the inability to perform the same activity for the same duration of time may constitute a permanent loss of a bodily function.**

Plaintiff may recover damages for noneconomic harm, such as pain and suffering, embarrassment and humiliation, disfigurement, and the loss of the ability to enjoy the pleasures of life, if he sustained a permanent disfigurement as a result of defendant's negligence. Disfigurement includes scarring, deformity, limp, or other observable defect that endured and will endure as a result of his injury harm.

#### **ALLEGATION 4**

Third Circuit model Jury Instructions \*4.8.3 as follows:

This standard applies to deliberate indifference to a substantial risk of harm to a person is the equivalent of recklessly disregarding that risk. Punitive damages may be awarded in this "1983" Civil action where the defendant's conduct is shown to be motivated by evil intent, or when it involves reckless or callous indifference to the federally protected rights of others.

\**Estelle*, *Supra* sets forth the Supreme Court principles that Pre trial inmates should be afforded adequate medical treatment with broad and idealistic concept of dignity, Civilized standards, Humanity, embodied in the eighth amendment, The Government is obliged to provide medical care for those whom it is punishing by incarceration. That an inmate must rely on prison authorities to treat his medical needs, and if the authorities fail to do so those needs will not be met. Such denial, exposes the inmate to undue suffering or the threat of tangible residual injuries.

#### **Vii. APPLICATION OF LAW TO THE FACTS**

See, e.g., \* *Estelle v. Gamble*, 429 U.S. 97, 97 S.Ct 285, 50 L.Ed 2d 251 (1976)\*\*\*\*\*See, e.g, *Inmates of Alleghany County Jail v. Pierce*, 612 F.2d 754, 762 (3d Cir.1979)\**Smith v. Wade*, 461 U.S. 30, 34, 103 S.Ct 1625, 75 L.Ed 2d 632 (1983);

\*Severe emotional distress see, e.g., *Kroger Co v. Willgruber*, Ky 920 S.2d 61 67 43 4 Ky Summary 26 (Ky.1996) ;\*\* *Gilbert v. Barker*, 987 S.W.2d 772, 777 (Ky.1999);*Craft v. Rice* , 671 S.W.2d 247 249 (Ky.1984) Cites Compensatory and Punitive damages awarded as reasonable.

\*The United States definition of Serious bodily injury U.S.S.G 1B1 Comment {n.B} is defines as follows:

\*Serious bodily injury means involving extreme pain or the protracted impairment of the bodily member, organ, or mental function

of the bodily member, organ or mental faculty, or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation. {k} Permanent or the threatening injury involving a substantial risk of death; ; losses or substantial impairment of the bodily member, organ or mental faculty that is likely to be permanent, or an obvious disfigurement that is likely to be permanent. The United States Sentencing guideline notes "Bodily injury" as any significant injury; an injury that is painful or obvious, or is a type that for which medical attention is needed U.S.S.G 1 B1 Comment {n.1B} Serious bodily injury is defined as injury involving "extreme physical pain" or requiring medical intervention such as surgery.\*\*U.S. v. Markle, 628 F.3d 58 63 (2d Cir.2010);

\*18 USC 2246 The term **serious Bodily injury** means bodily injury that involves death, unconsciousness, **extreme physical pain**, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

\*\*In tort cases such as this one,

"When a person has suffered harm that is more or less permanent in nature....hes entitled to recover damages not only for harm already suffered but also for that which will probable result in the future. see,e.g, Corriete v. Morales, 50 V.1.202, 211(2008);

See,e.g., Smith v. Wade, 461 U.S. 56, 103 S.Ct 1625, 75 L.Ed 2d 632 (1983) \*Noting that this case sets forth the framework for punitive damages for conduct of each of your defendants for callousness, Reckless conduct, or deliberately causing your plaintiff to suffer severe excruciating physical pain with any adequate pain management.

\*\*\*Plaintiff Nicholas references the federal USGS guideline due that it references severe Physical pain and is hopeful to give an adequate redress of the Physical pain suffered as applied to an untreated Broken arm with his left wrist joints popping in and out of place every time he moved his arm or bent his wrist in any given direction causing excruciating amounts of nerve pain.

\*Third Circuit Model Jury Instruction for 42 U.S.C. 1983 Section 1983 Civil rights remedies as follows:

\*PA SSJI (Civ) Jury Instructions Model 14.160 Medical Provider for every year of injury.

\* Pa.SSJI (Civ) 7.175 Jury instructions, Noneconomic loss {3rd Circuit Model} (\*internal Citations omitted);

\*Jury instructions as to Punitive Damages. \*40 P.S. 1303.509(A) Medical

expenses. (\*Citations omitted);

\*PA.SSJI 7.110 Jury instructions for element of offense for **\*\*PAST AND FUTURE NONECONOMIC LOSS** defined as follows:

**\*\*\***"If you find defendants negligence caused plaintiff {harm} {injury} Plaintiff Nicholas is entitled to recover past and future money damages for the following types of harm:

1. Physical and mental pain and suffering.
2. Embarrassment and humiliation; [and]
3. Loss of ability to enjoy the pleasures of life. [and]
4. Disfigurement.

**\*\*\***Serious bodily injury references Model 1B1 applied to **USGS sentence guideline** references to **severe or extreme pain**.

∴ Plaintiff Nicholas contends that each defendant contributed to his severe Physical pain and suffering when he filed a grievance. Your defendants Brad Shoemaker, Ryan Barnes, Mark Lusk, Sean McGLAUGHLIN, denied his grievance and failed to intervene with any adequate pain management. That Your defendants Recklessness was the proximate cause of his severe Physical pain and suffering.

## **ALLEGATION 5**

Allegation of untreated pain, nerve damages, and bone fractures satisfies the imminent danger exceptions of Real & Proximate damages. (\*Mendralla v. Weaver Corp, 703 A.2d 480, 487 Pa Super.1997 (en Banc) Pa.R.Civ.P.233.3) sets forth model instructions to be furnished to the jury on Noneconomic loss, states four items that make up damages award for noneconomic loss "are"

- 1.Pain and suffering
- 2.Embarrassment and humiliation.

∴ Plaintiff Nicholas Contends that as a proximate result of your defendants Sean McGlaughlin , Nurse Supervisor Shirley , Brad Shoemaker, Ryan Barnes, Lt Mitchletree, Lt. White, failures that Plaintiff has suffered a lifelong serious bodily injury that has caused for him to have a lifelong disability of disfigurement.

## **APPLICATION OF LAW TO THE FACTS**

\*[The] ongoing denial of care for serious injury can establish an imminent danger exception. Bone fractures, unbearable pain, nerve damages, and bone fractures cause severe and excruciating pain to the Plaintiff Nicholas.

The Damages are Real and Proximate damages to the Plaintiff caused by each individual defendants deliberate indifferences to his medical needs. \*See,e.g.,



Fletcher v. Menard Corr.Ctr., 623 F.3d 1171, 1173 7th Cir.2010) (\*Citations omitted)

∴Plaintiff Nicholas contends that as Proximate result of your defendants Brad Shoemaker, Ryan Barnes, Mark Lusk, Lt. Mitcheltree, Lt White, McGLAUGHLIN, deliberately caused for serious bodily harm to be inflicted upon him.

**ALLEGATION 6:**

Third Circuit model Jury instruction 4.8.3 Deliberate indifference to Federally protected rights.

1. deliberate indifference to federally protected right of Procedural due process of the 14th amendment article 1. individual rights pursuant to 42 USC 1983 section 1983.

**\*\*In the ALTERNATE \*\*PA.SSJI (civ) 7.50 DAMAGES IN CASES OF UNDISPUTED NEGLIGENCE AND HARM.**

∴ Plaintiff Nicholas contends that as a Proximate result of your defendants Brad Shoemaker, Ryan Barnes, Sean McGlaughlin, Nurse Supervisor Shirley, Lt Mitcheltree, Deliberate ,reckless, intentional, disregard for the safety and health of this Plaintiff that he sustain irreparable injuries.

**ALLEGATION 7:**

Third Circuit model Jury instructions 4.6.1 as to acquiescence:

Plaintiff Nicholas is entitled to Compensatory damages as defined in suggested JURY INSTRUCTION 7.130 2013 Plaintiff is entitled to Noneconomic damages for past and future (pain) and suffering (2) embarrassment and humiliation (3) losses of the ability to enjoy pleasures of life; and (4) disfigurement;

\*Under the Circumstances in Plaintiffs claiming an exacerbation of these severe injuries and physical pain and suffering.

∴Plaintiff Nicholas Contends that each of your defendants Dr McGlaughlin, Nurse Supervisor Shirley, Lt. Mitcheltree, Lt. White, Brad Shoemaker, Ryan Barnes, Mark Lusk , Lycoming County prison board members , Deliberately , recklessly , and intentionally caused him to suffere extreme Physical pain through the failure to treat urgent medical needs of Serious Bodily injury and extreme pain.

**Viii. ARGUMENT**

Plaintiff Nicholas argues the lycoming County Prison (A state actor under Section 1983 \* showed deliberate indifference to his health and safety thereby inflicting cruel or unusual punishment in violation of the Constitutionas

4th Amendment Due process Clause, Substantive and procedural due process (On or about September 21, 2024 through October 14th, 2024) and 8th Amendment prohibition against cruel and unusual punishment on a Pre trial inmate (from that date and thereafter until the present time) as incorporated under the 14th Amendment article 1 reciting individual rights and applied to the States under section "1983."

Plaintiff arm was not only broken due to prison negligence but, once broken, his left arm as left untreated was unreasonable for several weeks, exacerbating the injuries, increasing his severe pain and suffering. In addition, when treatment was later administered on or about \* October 14 by Orthopedic Trebec, M.D. included a surgical procedure that placed a six inch plate in Plaintiffs arm with six screws, leaving his arm permanently disfigured. Put simply, the gross negligence of the prison and its medical personnell maimed and permanently handicapped the Plaintiff Nicholas. As a direct result of the aforementioned injuries, Plaintiff has suffered, now suffers and will continue to suffer for an indefinite time.

**\* Footnote. Although the Lycoming County Prison bears the name of that county, the Lycoming County is part of the Commonwealths prison system and not a "County prison" in any formal institutional sense. For that reason, Aldinger, Supra and "County exception to Section 1983" is inapplicable.**

## **IX.REMEDIES**

### **A. Compensatory**

#### **1. Pecuniary Compensatory**

**Plaintiff cannot practice his chosen vocation, thereby losing a lifelong stream of income.**

Plaintiff Nicholas suffers from the irreparable injuries of trauma of the severity of the physivcal pain without any Pain management Before, during, or after the surgery.

#### **2. Non Pecuniary**

##### **1. LOSSES, IRREPARABLE INJURIES.**

2. loss of Strength in left arm.
3. Physical weakness of left arm.
4. Reduced strength in fingers.
5. losses of ballance with left hand.



6. Loss of employment Capacity.
7. Severe Bodily disfigurement.
8. Untreated Physical pain.
9. Mental anguish.
10. Severe aches and pains.
11. Loss of ability to perform normal activities.
12. loss of Income as a Licensed Barber Hairstylist.
13. Lifelong losses of Future earnings capacity.
14. Chronic Joint Pain in wrist.
15. Chronic Nerve aches and pains.
16. Bodily injuries of head trauma & swelling.
17. Losses of hearing in left ear.
18. Unjustified neglect of severe pain & suffering.
19. Surgical scarring and disfigurement.
20. Permanent Physical pain and suffering.
21. Permanent Bodily disfigurement of Plates & screws implanted in left arm.
22. Permanent mental humiliation & embarrassment.
23. Permanent mental anguish.
24. Permanent mental disorientation.
25. Permanent mental anguish resulting from each day suffered with the need of urgent medical care & pain management.

## **B. Punitive**

"Punitive damages are appropriate only if the actors conduct was malicious, willful, oppressive, or exhibited reckless indifference to the rights of others." **Hart v. O'Mally**, 781 A.2d 1211 (Pa.Super.Ct.2001) Since this matter is a veritable case study in reckless indifference and malicious, willful and oppressive conduct, punitive award applies. That tortious reckless conduct is the proximate, but for cause of the injuries described above. Punitive damages are applicable to deter the Lycoming County Prison (a repeat tortfeasor) and other prisons from similar conduct.

\* **Smith v. Wade**, 461 U.S. 30, 51, 103 S.Ct 1625, 75 L.Ed 2d 632 (1983); Citing **Wilson v. Aquino**, 233 F.App'x 73, 77 (2d Cir.2007); The purpose of awarding punitive damages is to punish a defendant for extreme or outrageous conduct, and deter or prevent the defendant and others like him from committing similar acts in the future. see, e.g., **Lee v. Edward**, 101 F.3d 805, 809 (2d Cir.1996); punitive damages are available upon finding defendants acted maliciously, recklessly, or callously with respect to plaintiff rights. **Smith**, 461 U.S. at 56; accord **Lee**, 101 F3d at 808 Punitive damages re

available for "1983" SECTION, WHEN DEFENDANT VIOLATES FEDERALLY PROTECTED RIGHTS OF OTHERS., SHOWS TO BE EVIL MOTIVE, CALLOUS, RECKLESS CONDUCT.

### C. Equitable

"Equitable damages" That as Proximate cause of undue pain and suffering as a pre trial detainee the Plaintiff suffers losses at equity:

1. Plaintiff Nicholas is denied rights as a Pre trial detainee.
2. Plaintiff Nicholas has been deprived Substantive due process pursuant to the 6th USC amendment.
3. Plaintiff has been deprived Procedural due process pursuant to the 6th USC Amendment.
4. Plaintiff has been suffered Cruel and Unusual Punishments Pursuant to the 8th USC Amendment.
5. Plaintiff has suffered Procedural due process violation pursuant to the 5th USC Amendment.
6. Plaintiff has suffered Substantive due process violations pursuant to the 14th USC Amednment article one reciting Individual rights.
7. Plaintiff has suffered irreparable damages in his Criminal defense pending in the Court of Common Pleas of Lycoming County.

### CONCLUSION

### RELIEF

WHEREFORE, plaintiff demands a judgment against defendant in an amount (not) in excess of \$ \_\_\_\_\_ as awarded by A Jury trial of peers or Similiarly situated Cases.

WHEREFORE, PLAINTIFF DEMANDS JURY TRIAL AND AWARD OF COMPENSATORY AND PUNITIVE DAMAGES SIMILIAR TO THOSE CASES LIKE THIS ONE.

### LOADSTAR REMEDIES:

Reed v. Wexford Health Sources., inc 2024 U.S. dist,\* 8 TH AMENDMENT DELIBERATE INDIFFERENCE, FAILED TO TREAT HERNIA AS IT WAS GETTING WORSE. COMPENSATION \$ 750,000 Compensatory & Punitive award damages.

\*Williams v. Marinelli, 2017 U.S. DIST \$ 650,000 BY EXPOSING INMATE TO INMATE ASSAULT BY PLACING CELL MATE IN CELL WHO ASSAULTED HIM WITH A HISTORY OF ASSAULTS.\*\*Tatum v. JACKSON, 668 F.Supp 2d

349, 357-58, 363-65(E.d)

THIS IS TRUE AND CORRECT

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3/17/2024

Edward J. Nichols

Edward J. Nichols

Inmate Name

Nicholas, Edward and 28559

Lycoming County Prison  
P.O. Box 247  
Phoenix, MD 21131

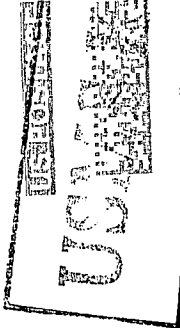
Inmate #

GROUND ADV  
MAIL

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FIRST-CLASS

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United States Court  
for the middle district of PA  
233 North Washington Avenue  
P.O. Box 1148  
Scranton, PA 18501-1148

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[Signature]  
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